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CHUBB GROUP OF INSURANCE COMPANIES
Environmental Claims Department

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April 7, 2009

David B. Jensen Esq.
Law Offices of Gordon, Thomas, Honeywell,
Malanca, Peterson & Daheim LLP
One Union Square
600 University, Suite 2100
Seattle, Washington 98101-4185

RE: INSURED: Puget Sound Freight Lines, Inc.
SITE: North Marina West End, Seattle, WA
OUR FILE NO.: 7101 74 91
LOSS DATE: 1/1/77 (Reference Only)
COMPANY: Federal Insurance Company (hereinafter "Federal")

Dear Mr. Jensen,

This correspondence responds to the documents and correspondence that you, on behalf of Puget Sound Freight Lines, Inc. and Puget Sound Truck Lines (collectively, "PSTL") sent to Chubb Group of Insurance Companies with respect to the above-captioned claim. Federal has conducted an investigation, including review of certain insurance policies and secondary evidence of insurance issued to PSTL. Based upon this review, Federal has determined that there is the potential for coverage under policy number 7101 74 91. Consequently, Federal will participate in the defense of PSTL under policy number 7101 74 91 subject to the following reservations of rights. With respect to policy numbered 7907 67 07 for the term 6/1/01 to 6/1/03, Federal respectfully declines coverage for this matter. Our analysis follows.

With respect to policy number 7101 74 91 we have physically searched our policy archives and conducted an electronic search, including an electronic search of past loss activity. While we were unable to locate a copy of the policy, our internal records indicate that this policy was issued and that claims were set up under the insured name "Puget Sound Freight Lines" and "Puget Sound Truck Lines." Please provide any information you have with respect to the legal relationship between "Puget Sound Freight Lines" and "Puget Sound Truck Lines." We request that you provide us with an actual copy of the policy or any additional secondary evidence you may currently possess or locate later. Based on the information currently available, it appears that this was a policy which afforded both general liability and automobile coverage. In this regard we are enclosing a copy of a general liability policy form that was most likely in use during the relevant time period. Please note that this basic policy form was likely subject to various endorsements which would have modified the coverage provided by the basic

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policy form. Consequently, Federal reserves the right to rely on any such endorsements in the event our continuing investigation locates such endorsements.

With respect to the pertinent facts, it is our understanding that PSTL was named as a potentially liable person by the State of Washington, Department of Ecology (hereinafter "Ecology") under the Model Toxics Control Act in connection with contamination of hazardous waste sites. Allegedly, PSTL was the owner and /or operator of the North Marina West End site located between 11th and 14th Streets off West Marine View Drive in Everett, Washington, under Parcel Nos. 29051800220880, 29051800208900; 29051800209000 and 29051800302400. It is our understanding that PSTL installed and operated two diesel underground storage tanks for use in fueling their fleet of trucks on the property. We are advised that Ecology has determined that the underground storage tanks have released hazardous substances into the soil and groundwater causing contamination on and underneath the site. Consequently, Ecology has determined that there may be an imminent and substantial endangerment to the public health or welfare to the environment because of the release and /or threaten release of hazardous substances at the site.

Federal has reviewed the following policies issued to PSTL:

7101 74 91 (primary)	Unknown	Unknown
7907 67 07 (umbrella)	6/1/01 to 6/1/02	\$4M Occ/Agg x/s \$1M Occ/ \$2M General Agg
7907 67 07 (umbrella)	6/1/02 to 6/1/03	\$1M Occ/Agg x/s \$1M Occ/ \$2M General Agg

It is likely policy number 7101 74 91 was issued by Federal and for the purposes of this letter, we will reference Federal as the issuing company, reserving the right to amend the letter if additional evidence identifies a different issuing company. Federal reserves all rights under the policy to assert any and all coverage defenses which may be applicable in this matter. Federal also reserves the right to amend or revise its coverage position should additional policy evidence be located.

Moreover, Federal reserves the right to deny coverage, withdraw from the defense and/or seek reimbursement of defense costs if it is later determined that PSTL is not an insured and/or should it later be determined that there is no coverage under the policy.

As stated above, the policy evidence we have located indicates policy 7101 74 91 appears most likely to be a General Liability -Automobile Policy, which includes the following insuring agreement:

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I. COVERAGE A--BODILY INJURY LIABILITY

COVERAGE B--PROPERTY DAMAGE LIABILITY

The company will pay on behalf of the **insured** all sums which the **insured** shall become legally obligated to pay as **damages** because of

Coverage A. **bodily injury** or

Coverage B. **property damage**

to which this insurance applies, caused by an **occurrence**, and the company shall have the right and duty to defend any suit against the **insured** seeking damages on account of such **bodily injury** or **property damage**, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the company shall not be obligated to pay any claim or judgment or to defend any suit after the applicable limit of the company's liability has been exhausted by payment of judgments or settlements.

The General Liability--Automobile Policy contains the following relevant definitions:

property damage means

- (1) physical injury to or destruction of tangible property, which occurs during the policy period, including the loss of use thereof at any time resulting therefrom, or (2) loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by an **occurrence** during the policy period;

occurrence means an accident, including continuous or repeated exposure to conditions, which results, in **bodily injury** or **property damage** neither expected nor intended from the standpoint of the **insured**;

The General Liability--Automobile Policy contains the following exclusionary language, which may apply to limit or bar coverage for this matter:

Exclusions

This insurance does not apply:....

- ...(f) to **bodily injury** or **property damage** arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acid, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any

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watercourse or body of water; but this exclusion does not apply if such discharge, dispersal, release or escape is sudden and accidental.

...(k) to **property damage** to

- (1) property owned or occupied by or rented to the **insured**,
- (2) property used by the **insured**, or
- (3) property in the care, custody or control of the **insured** or as to which the **insured** is for any purpose exercising physical control;

but parts (2) and (3) of this exclusion do not apply with respect to liability under a written sidetrack agreement and part (3) of this exclusion does not apply with respect to **property damage** (other than to elevators) arising out of the use of an elevator at premises owned by, rented to or controlled by the **named insured**;

- (l) to **property damage** to premises alienated by the **named insured** arising out of such premises or any part thereof.

Federal reserves the right to assert any of the above-cited exclusionary language as a limit or bar to coverage.

As cited above, **property damage** must occur during the policy period for coverage to apply. Should further investigation reveal that **property damage** did not occur during the policy period of the Federal policy, there would be no coverage for this matter.

Policies 7907 67 07 are designated as Chubb Commercial Umbrella policies. The Chubb Commercial Umbrella policies contain two insuring agreements, Coverage A and Coverage B. Coverage A reads in pertinent part as follows:

Under Coverage A, we will pay on behalf of the **insured**, that part of **loss** covered by this insurance in excess of the total applicable limits of **underlying insurance**, provided the injury or offense takes place during the Policy Period of this policy. The terms and conditions of **underlying insurance** are with respect to Coverage A made a part of this policy, except with respect to:

- A. any contrary provision contained in this policy; or
- B. any provision in this policy for which a similar provision is not contained in **underlying insurance**....

Notwithstanding anything to the contrary contained above, if **underlying insurance** does not cover **loss**, for reasons other than exhaustion of an aggregate limit of insurance by payment of claims, then we will not cover such **loss**....

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Policies 7907 67 07 contain the following definitions applicable to Coverage A:

Loss means those sums actually paid in the settlement or satisfaction of a claim which the insured is legally obligated to pay as damages because of injury or offense, after making proper deductions for all recoveries and salvage.

Policies 7907 67 07 contain the following definitions applicable to Coverage A and Coverage B:

Underlying insurance means the policy or policies of insurance listed in the Schedule of Underlying Insurance forming a part of this policy.

Federal does not have copies of the **underlying insurance** policies. Consequently, Federal reserves the right to assert any applicable language contained in the **underlying insurance** policies as a bar or limit to coverage under Coverage A.

Notwithstanding the above, policy 7907 67 07 contains, by endorsement, the following exclusionary language applicable to Coverage A pertaining to claims or damages arising out of **pollutants**, which operates to preclude coverage for this matter:

THIS POLICY IS SUBJECT TO THE FOLLOWING ENDORSEMENT

Under 'Exclusions,' 'Applicable to Coverage A Only,' the exclusion titled 'Pollution Liability' is deleted and replaced with the following:

Pollution Liability

1. any liability arising out of the actual, alleged or threatened discharge, dispersal, migration, seepage, release or escape of **pollutants**.
2. any loss, cost or expense arising out of any:
 - a. request, demand or order that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects of **pollutants**; or
 - b. claim or suit by or on behalf of any governmental authority or others for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way respond to, or assessing the effects of **pollutants**.

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As used in this exclusion, **pollutants** means any solid, liquid, gaseous, or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned, reclaimed or disposed of.

This exclusion applies whether or not the pollution was sudden, accidental, gradual, intended, expected, unexpected, preventable or not preventable.

All other terms and conditions remain unchanged.

Further, pursuant to policy language, injury must occur during the policy period for Coverage A to apply. To the extent it is determined that injury did not take place during the policy period, coverage under Coverage A would be further barred.

Since there is no coverage for this matter under Coverage A, Federal will look to Coverage B of policies 7907 67 07. The insuring agreement under Coverage B reads in pertinent part as follows:

Under Coverage B, we will pay on behalf of the insured, damages the insured becomes legally obligated to pay by reason of liability imposed by law or assumed under an insured contract because of **bodily injury, property damage, personal injury, or advertising injury** covered by this insurance which takes place during the Policy Period of this policy and is caused by an occurrence. We will pay such damage in excess of the Retained Limit Aggregate specified in Item 4d. of the Declarations or the amount payable by other insurance, whichever is greater.

Damages because of **bodily injury** include damages claimed by any person or organization for care or loss of services resulting at any time from the **bodily injury**....

Coverage B will not apply to any loss, claim or suit for which insurance is afforded under **underlying insurance** or would have been afforded except for the exhaustion of the limits of insurance of **underlying insurance**....

Policies 7907 67 07 contain the following definitions applicable to Coverage B (quoted in pertinent part):

Occurrence means:

1. with respect to **bodily injury or property damage** liability, an accident, including continuous or repeated exposure to substantially the same general harmful conditions....

Property Damage means:

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1. physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
2. loss of use of tangible property that is not physically injured. All such loss shall be deemed to occur at the time of the occurrence that caused it.

Policies 7907 67.07 contain the following exclusionary language applicable to Coverage B pertaining to claims or damages arising out of **pollutants**, which operates to bar coverage for this matter:

Pollution Liability

1. any liability arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants**; or
2. any loss, cost or expense arising out of any:
 - a. request, demand or order that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects of **pollutants**; or
 - b. claim or suit by or on behalf of any governmental authority or others for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to, or assessing the effects of **pollutants**.

As used in this exclusion, **pollutants** means any solid, liquid, gaseous, or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned, reclaimed or disposed of.

This exclusion applies whether or not the pollution was sudden, accidental, gradual, intended, expected, unexpected, preventable or not preventable.

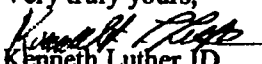
Pursuant to policy wording, **property damage** must occur during the policy period for there to be coverage under Coverage B. Please note that should it later be determined that **property damage** occurred outside the applicable Federal policy period, coverage would be further barred under Coverage B.

Federal also reserves the right under the policy and applicable law to cite additional applicable policy provisions as may be appropriate. By limiting policy references to the ones cited, Federal does not waive any other policy provisions.

We have assigned the defense of this matter to Patrick M. Paulich Esq. at the law offices of Thorsrud Cane & Paulich. Mr. Paulich can be reached at (206) 386-7755. Please provide him with your utmost cooperation.

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The coverage analysis outlined herein is based upon information currently available to Federal. Should you have information, which you believe may bear upon the issue of coverage, please forward the relevant documentation to us for immediate review.

Very truly yours,

Kenneth Luther JD
Environmental Claims Examiner



GENERAL LIABILITY — AUTOMOBILE POLICY

This policy provides general liability or automobile insurance or both, as shown on the pages within. Please read your policy.

POLICY PROVISIONS

In consideration of the payment of the premium, in reliance upon the statements in the declarations made a part hereof and subject to all of the terms of this policy, the company agrees with the named insured as follows:

SUPPLEMENTARY PAYMENTS

The company will pay, in addition to the applicable limit of liability:

(a) all expenses incurred by the company, all costs taxed against the insured in any suit defended by the company and all interest on the entire amount of any judgment therein which accrues after entry of the judgment and before the company has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of the company's liability thereon;

(b) premiums on appeal bonds required in any such suit, premiums on bonds to release attachments in any such suit for an amount not in excess of the applicable limit of liability of this policy, and the cost of bail bonds required of the insured because

of accident or traffic law violation arising out of the use of any vehicle to which this policy applies, not to exceed \$250 per bail bond, but the company shall have no obligation to apply for or furnish any such bonds;

(c) expenses incurred by the insured for first aid to others at the time of an accident, for bodily injury to which this policy applies;

(d) reasonable expenses incurred by the insured at the company's request in assisting the company in the investigation or defense of any claim or suit, including actual loss of earnings not to exceed \$25 per day.

DEFINITIONS

When used in this policy (including endorsements forming a part hereof):

"automobile" means a land motor vehicle, trailer or semitrailer designed for travel on public roads (including any machinery or apparatus attached thereto), but does not include mobile equipment;

"bodily injury" means bodily injury, sickness or disease sustained by any person which occurs during the policy period, including death at any time resulting therefrom;

"collapse hazard" includes "structural property damage" as defined herein and property damage to any other property at any time resulting therefrom. "Structural property damage" means the collapse of or structural injury to any building or structure due to (1) grading or land, excavating, borrowing, filling, back-filling, tunneling, pile driving, cofferdam work or caisson work or (2) moving, shoring, underpinning, raising or demolition of any building or structure or removal or rebuilding of any structural support thereof. The collapse hazard does not include property damage (1) arising out of operations performed for the named insured by independent contractors, or (2) included within the completed operations hazard or the underground property damage hazard, or (3) for which liability is assumed by the insured under an incidental contract;

"completed operations hazard" includes bodily injury and property damage arising out of operations or reliance upon a representation or warranty made at any time with respect thereto, but only if the bodily injury or property damage occurs after such operations have been completed or abandoned and occurs away from premises owned by or rented to the named insured. "Operations" include materials, parts or equipment furnished in connection therewith. Operations shall be deemed completed at the earliest of the following times:

- (1) when all operations to be performed by or on behalf of the named insured under the contract have been completed,
- (2) when all operations to be performed by or on behalf of the named insured at the site of the operations have been completed, or
- (3) when the portion of the work out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

Operations which may require further service or maintenance work, or correction, repair or replacement because of any defect or deficiency, but which are otherwise complete, shall be deemed completed.

The completed operations hazard does not include bodily injury or property damage arising out of

(a) operations in connection with the transportation of property, unless the bodily injury or property damage arises out of a condition in or on a vehicle created by the loading or unloading thereof,

(b) the existence of tools, uninstalled equipment or abandoned or unused materials, or

(c) operations for which the classification stated in the policy or in the company's manual specifies "including completed operations";

"elevator" means any hoisting or lowering device to connect floors or landings, whether or not in service, and all appliances thereof including any car, platform, shaft, hoistway, stairway, runway, power equipment and machinery, but does not include an automobile servicing hoist, or a hoist without a platform outside a building if without mechanical power or if not attached to building walls, or a hoist or material hoist used in alteration, construction or demolition operations, or an inclined conveyor used exclusively for carrying property or a dumbwaiter used exclusively for carrying property and having a compartment height not exceeding four feet;

"explosion hazard" includes property damage arising out of blasting or explosion. The explosion hazard does not include property damage (1) arising out of the explosion of air or steam vessels, piping under pressure, prime movers, machinery or power transmitting equipment, or (2) arising out of operations performed for the named insured by independent contractors, or (3) included within the completed operations hazard or the underground property damage hazard, or (4) for which liability is assumed by the insured under an incidental contract;

"incidental contract" means any written (1) lease of premises, (2) easement agreement, except in connection with construction or demolition operations on or adjacent to a railroad, (3) undertaking to indemnify a municipality required by municipal ordinance, except in connection with work for the municipality, (4) sidetrack agreement, or (5) elevator maintenance agreement;

"insured" means any person or organization qualifying as an insured in the "Persons Insured" provision of the applicable insurance coverage. The insurance afforded applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the company's liability;

"mobile equipment" means a land vehicle (including any machinery or apparatus attached thereto), whether or not self-propelled, (1) not subject to motor vehicle registration, or (2) maintained for use exclusively on premises owned by or rented to the named insured, including the ways immediately adjoining, or (3) designed for use principally off public roads, or (4) designed or maintained for the sole purpose of affording mobility to equipment of the following types forming an integral part of or permanently attached to such

vehicle: power cranes, shovels, loaders, diggers and drills; concrete mixers (other than the mix-in-transit type); graders, scrapers, rollers and other road construction or repair equipment; air-compressors, pumps and generators, including spraying, welding and building cleaning equipment; and geophysical exploration and well servicing equipment.

"named insured" means the person or organization named in Item 1. of the declarations of this policy;

"named insured's products" means goods or products manufactured, sold, handled or distributed by the named insured or by others trading under his name, including any container thereof (other than a vehicle), but "named insured's products" shall not include a vending machine or any property other than such container, rented to or located for use of others but not sold;

"occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured;

"policy territory" means:

- (1) the United States of America, its territories or possessions, or Canada, or
- (2) international waters or air space, provided the bodily injury or property damage does not occur in the course of travel or transportation to or from any other country, state or nation, or
- (3) anywhere in the world with respect to damages because of bodily injury or property damage arising out of a product which was sold for use or consumption within the territory described in paragraph (1) above, provided the original suit for such damages is brought within such territory.

territory described in paragraph (1) above, provided the original suit for such damages is brought within such territory.

"products hazard" includes bodily injury and property damage arising out of the named insured's products or reliance upon a representation or warranty made at any time with respect thereto, but only if the bodily injury or property damage occurs away from premises owned by or rented to the named insured and after physical possession of such products has been relinquished to others;

"property damage" means (1) physical injury to or destruction of tangible property which occurs during the policy period, including the loss of use thereof at any time resulting therefrom, or (2) loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by an occurrence during the policy period;

"underground property damage hazard" includes underground property damage as defined herein and property damage to any other property at any time resulting therefrom. "Underground property damage" means property damage to wires, conduits, pipes, mains, sewers, tanks, tunnels, any similar property, and any apparatus in connection therewith, beneath the surface of the ground or water, caused by and occurring during the use of mechanical equipment for the purpose of grading land, paving, excavating, drilling, boring, filling, back-filling or pile driving. The underground property damage hazard does not include property damage (1) arising out of operations performed for the named insured by independent contractors, or (2) included within the completed operations hazard, or (3) for which liability is assumed by the insured under an incidental contract.

CONDITIONS

1. **Premium.** All premiums for this policy shall be computed in accordance with the company's rules, rates, rating plans, premiums and minimum premiums applicable to the insurance afforded herein.

Premium designated in this policy as "advance premium" is a deposit premium only which shall be credited to the amount of the earned premium due at the end of the policy period. At the close of each period (or part thereof terminating with the end of the policy period) designated in the declarations as the audit period the earned premium shall be computed for such period and, upon notice thereof to the named insured, shall become due and payable. If the total earned premium for the policy period is less than the premium previously paid, the company shall return to the named insured the unearned portion paid by the named insured.

The named insured shall maintain records of such information as is necessary for premium computation, and shall send copies of such records to the company at the end of the policy period and at such times during the policy period as the company may direct.

2. **Inspection and Audit.** The company shall be permitted but not obligated to inspect the named insured's property and operations at any time. Neither the company's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the named insured or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.

The company may examine and audit the named insured's books and records at any time during the policy period and extensions thereof and within three years after the final termination of this policy, as far as they relate to the subject matter of this insurance.

3. **Financial Responsibility Laws.** When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, such insurance as is afforded by this policy for bodily injury liability or for property damage liability shall comply with the provisions of such law to the extent of the coverage and limits of liability required by such law. The insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except for the agreement contained in this paragraph.

4. **Insured's Duties in the Event of Occurrence, Claim or Suit.**

- (a) In the event of an occurrence, written notice containing particulars sufficient to identify the insured and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given by or for the insured to the company or any of its authorized agents as soon as practicable.
- (b) If claim is made or suit is brought against the insured, the insured shall immediately forward to the company every demand, notice, summons or other process received by him or his representative.
- (c) The insured shall cooperate with the company and, upon the company's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the insured because of injury or damage with respect to which insurance is afforded under this policy; and the insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The insured shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense other than for first aid to others at the time of accident.

5. **Action Against Company.** No action shall lie against the company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, nor until the amount of the insured's obligation to pay shall have been finally determined either by judgment against the insured after actual trial or by written agreement of the insured, the claimant and the company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the company as a party to any action against the insured to determine the insured's liability, nor shall the company be impleaded by the insured or his legal representative. Bankruptcy or insolvency of the insured or of the insured's estate shall not relieve the company of any of its obligations hereunder.

6. **Other Insurance.** The insurance afforded by this policy is primary insurance, except when stated to apply in excess of or contingent upon the absence of other insurance. When this insurance is primary and the insured has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of the company's liability under this policy shall not be reduced by the existence of such other insurance. When both this insurance and other insurance apply to the loss on the same basis, whether primary, excess or contingent, the company shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

- (a) **Contribution by Equal Shares.** If all of such other valid and collectible insurance provides for contribution by equal shares, the company shall not be liable for a greater proportion of such loss than would be payable if each insurer contributes an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not so paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.
- (b) **Contribution by Limits.** If any of such other insurance does not provide for contribution by equal shares, the company shall not be liable for a greater proportion of the loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

7. **Subrogation.** In the event of any payment under this policy, the company shall be subrogated to all the insured's rights of recovery therefor against any person or organization and the insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The insured shall do nothing after loss to prejudice such rights.

8. **Changes.** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or stop the company from asserting any right under the terms of this policy, nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy, signed by a duly authorized representative of the company.

9. **Assignment.** Assignment of interest under this policy shall not bind the company until its consent is endorsed hereon; if, however, the named insured shall die, such insurance as is afforded by this policy shall apply (1) to the named insured's legal representative,

as the named insured, but only while acting within the scope of his duties as such, and (2), with respect to the property of the named insured, to the person having proper temporary custody thereof, as insured, but only until the appointment and qualification of the legal representative.

10. **Three Year Policy.** If this policy is issued for a period of three years any limit of the company's liability stated in this policy as "aggregate" shall apply separately to each consecutive annual period thereof.

11. **Cancellation.** This policy may be cancelled by the named insured by surrender thereof to the company or any of its authorized agents or by mailing to the company written notice stating when thereafter the cancellation shall be effective. This policy may be cancelled by the company by mailing to the named insured at the address shown in this policy, written notice stating when not less than ten days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of

surrender or the effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the named insured or by the company shall be equivalent to mailing.

If the named insured cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If the company cancels, earned premium shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

12. **Declarations.** By acceptance of this policy, the named insured agrees that the statements in the declarations are his agreements and representations, that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between himself and the company or any of its agents relating to this insurance.

This endorsement modifies the provisions of the policy relating to ALL AUTOMOBILE LIABILITY, GENERAL LIABILITY AND MEDICAL PAYMENTS INSURANCE OTHER THAN COMPREHENSIVE PERSONAL AND FARMER'S COMPREHENSIVE PERSONAL INSURANCE.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT — BROAD FORM

It is agreed that:

I. The policy does not apply:

A. Under any Liability Coverage, to bodily injury or property damage

- (1) with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (2) resulting from the hazardous properties of nuclear material and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments Coverage, or under any Supplementary Payments provision relating to first aid, to expenses incurred with respect to bodily injury resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

C. Under any Liability Coverage, to bodily injury or property damage resulting from the hazardous properties of nuclear material, if

- (1) the nuclear material (a) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (b) has been discharged or dispersed therefrom;
- (2) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
- (3) the bodily injury or property damage arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to property damage to such nuclear facility and any property thereof.

II. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties;

"nuclear material" means source material, special nuclear material or byproduct material;

"source material", "special nuclear material", and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

"waste" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof;

"nuclear facility" means

- (a) any nuclear reactor,
- (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
- (c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of, waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"property damage" includes all forms of radioactive contamination of property.

NEW YORK — It is agreed that the provisions of the "Nuclear Energy Liability Exclusion Endorsement — Broad Form", printed above, does not apply in New York with respect to any Automobile Bodily Injury Liability and Automobile Property Damage Liability coverage afforded by this policy.



COMPREHENSIVE GENERAL LIABILITY INSURANCE COVERAGE PART

Insurance applies only to those coverages for which a Limit of Liability is shown.

Coverages	Limits of Liability	Policy No.
A. Bodily Injury Liability	\$ each occurrence	\$
	\$ aggregate	
B. Property Damage Liability	\$ each occurrence	\$
	\$ aggregate	
Enter "x", "c", "u" classification and code number if Exclusion (q) applies.		\$ Total Advance Premium

I. COVERAGE A—BODILY INJURY LIABILITY

COVERAGE B—PROPERTY DAMAGE LIABILITY

The company will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of

Coverage A. bodily injury or

Coverage B. property damage

to which this insurance applies, caused by an occurrence, and the company shall have the right and duty to defend any suit against the insured seeking damages on account of such bodily injury or property damage, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the company shall not be obligated to pay any claim or judgment or to defend any suit after the applicable limit of the company's liability has been exhausted by payment of judgments or settlements.

Exclusions

This insurance does not apply:

- (a) to liability assumed by the insured under any contract or agreement except an incidental contract; but this exclusion does not apply to a warranty of fitness or quality of the named insured's products or a warranty that work performed by or on behalf of the named insured will be done in a workmanlike manner;
- (b) to bodily injury or property damage arising out of the ownership, maintenance, operation, use, loading or unloading of:
 - (1) any automobile or aircraft owned or operated by or rented or loaned to any insured, or
 - (2) any other automobile or aircraft operated by any person in the course of his employment by any insured;but this exclusion does not apply to the parking of an automobile on premises owned by, rented to or controlled by the named insured or the ways immediately adjoining, if such automobile is not owned by or rented or loaned to any insured;
- (c) to bodily injury or property damage arising out of (1) the ownership, maintenance, operation, use, loading or unloading of any mobile equipment while being used in any prearranged or organized racing, speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity or (2) the operation or use of any snowmobile or trailer designed for use therewith;
- (d) to bodily injury or property damage arising out of and in the course of the transportation of mobile equipment by an automobile owned or operated by or rented or loaned to any insured;
- (e) to bodily injury or property damage arising out of the ownership, maintenance, operation, use, loading or unloading of:
 - (1) any watercraft owned or operated by or rented or loaned to any insured, or
 - (2) any other watercraft operated by any person in the course of his employment by any insured;but this exclusion does not apply to watercraft while ashore on premises owned by, rented to or controlled by the named insured;

(f) to bodily injury or property damage arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any water course or body of water; but this exclusion does not apply if such discharge, dispersal, release or escape is sudden and accidental.

(g) to bodily injury or property damage due to war, whether or not declared, civil war, insurrection, rebellion or revolution or to any act or condition incident to any of the foregoing, with respect to

- (1) liability assumed by the insured under an incidental contract, or
- (2) expenses for first aid under the Supplementary Payments provision;

(h) to bodily injury or property damage for which the insured or his indemnitee may be held liable

- (1) as a person or organization engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages, or
- (2) if not so engaged, as an owner or lessor of premises used for such purposes, if such liability is imposed

(i) by, or because of the violation of, any statute, ordinance or regulation pertaining to the sale, gift, distribution or use of any alcoholic beverage, or

(ii) by reason of the selling, serving or giving of any alcoholic beverage to a minor or to a person under the influence of alcohol or which causes or contributes to the intoxication of any person;

but part (ii) of this exclusion does not apply with respect to liability of the insured or his indemnitee as an owner or lessor described in (2) above;

(j) to any obligation for which the insured or any carrier as his insurer may be held liable under any workmen's compensation, unemployment compensation or disability benefits law, or under any similar law;

(k) to bodily injury to any employee of the insured arising out of and in the course of his employment by the insured or to any obligation of the insured to indemnify another because of damages arising out of such injury; but this exclusion does not apply to liability assumed by the insured under an incidental contract;

(l) to property damage to

- (1) property owned or occupied by or rented to the insured,
- (2) property used by the insured, or
- (3) property in the care, custody or control of the insured or as to which the insured is for any purpose exercising physical control;

but parts (2) and (3) of this exclusion do not apply with respect to liability under a written sidetrack agreement and part (3) of this exclusion does not apply with respect to property damage (other than to elevators) arising out of the use of an elevator at premises owned by, rented to or controlled by the named insured;

(m) to property damage to premises alienated by the named insured arising out of such premises or any part thereof;

...or tangible property which has not been physically injured or destroyed resulting from

- (1) a delay in or lack of performance by or on behalf of the named insured of any contract or agreement, or
 - (2) the failure of the named insured's products or work performed by or on behalf of the named insured to meet the level of performance, quality, fitness or durably warranted or represented by the named insured;
- but this exclusion does not apply to loss of use of other tangible property resulting from the sudden and accidental physical injury to or destruction of the named insured's products or work performed by or on behalf of the named insured after such products or work have been put to use by any person or organization other than an insured;

(n) to property damage to the named insured's products arising out of such products or any part of such products;

(o) to property damage to work performed by or on behalf of the named insured arising out of the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith;

(p) to damages claimed for the withdrawal, inspection, repair, replacement, or loss of use of the named insured's products or work completed by or for the named insured or of any property of which such products or work form a part, if such products, work or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein;

(q) to property damage included within:

- (1) the explosion hazard in connection with operations identified in this policy by a classification code number which includes the symbol "x",
- (2) the collapse hazard in connection with operations identified in this policy by a classification code number which includes the symbol "c",
- (3) the underground property damage hazard in connection with operations identified in this policy by a classification code number which includes the symbol "u".

II. PERSONS INSURED

Each of the following is an insured under this insurance to the extent set forth below:

(a) if the named insured is designated in the declarations as an individual, the person so designated but only with respect to the conduct of a business of which he is the sole proprietor, and the spouse of the named insured with respect to the conduct of such a business;

(b) if the named insured is designated in the declarations as a partnership or joint venture, the partnership or joint venture so designated and any partner or member thereof but only with respect to his liability as such;

(c) if the named insured is designated in the declarations as other than an individual, partnership or joint venture, the organization so designated and any executive officer, director or stockholder thereof while acting within the scope of his duties as such;

(d) any person (other than an employee of the named insured) or organization while acting as real estate manager for the named insured; and

(e) with respect to the operation, for the purpose of locomotion upon a public highway, of mobile equipment registered under any motor vehicle registration law, (i) an employee of the named insured while operating any such equipment in the course of his employment, and

(ii) any other person while operating with the permission of the named insured any such equipment registered in the name of the named insured and any person or organization legally responsible for such operation, but only if there is no other valid and collectible insurance available, either on a primary or excess basis, to such person or organization;

provided that no person or organization shall be an insured under this paragraph (e) with respect to:

(1) bodily injury to any fellow employee of such person injured in the course of his employment, or

(2) property damage to property owned by, rented to, in charge of or occupied by the named insured or the employer of any person described in subparagraph (1). This insurance does not apply to bodily injury or property damage arising out of the conduct of any partnership or joint venture of which the insured is a partner or member and which is not designated in this policy as a named insured.

III. LIMITS OF LIABILITY

Regardless of the number of (1) insureds under this policy (2) persons or organizations who sustain bodily injury or property damage, or (3) claims made or brought on account of bodily injury or property damage, the company's liability limited as follows:

Coverage A—The total liability of the company for all damages, including damages for care and loss of services, because of bodily injury sustained by one or more persons as the result of any one occurrence shall not exceed the limit of bodily injury liability stated in the schedule as applicable to "each occurrence."

Subject to the above provision respecting "each occurrence", the total liability of the company for all damages because of (1) all bodily injury included within the completed operations hazard and (2) all bodily injury included within the products hazard shall not exceed the limit of bodily injury liability stated in the schedule as "aggregate."

Coverage B—The total liability of the company for all damages because of a property damage sustained by one or more persons or organizations as the result of any one occurrence shall not exceed the limit of property damage liability stated in the schedule as applicable to "each occurrence."

Subject to the above provision respecting "each occurrence", the total liability of the company for all damages because of all property damage to which this coverage applies and described in any of the numbered subparagraphs below shall not exceed the limit of property damage liability stated in the schedule as "aggregate":

(1) all property damage arising out of premises or operations rated on a remuneration basis or contractor's equipment rated on a receipts basis, including property damage for which liability is assumed under any incidental contract relating to such premises or operations, but excluding property damage included in subparagraph (2) below;

(2) all property damage arising out of and occurring in the course of operation performed for the named insured by independent contractors and general supervision thereof by the named insured, including any such property damage for which liability is assumed under any incidental contract relating to such operations, but this subparagraph (2) does not include property damage arising out of maintenance or repairs at premises owned by or rented to the named insured or structural alterations at such premises which do not involve changing the size of or moving buildings or other structures;

(3) all property damage included within the products hazard and all property damage included within the completed operations hazard.

Such aggregate limit shall apply separately to the property damage described in subparagraphs (1), (2) and (3) above, and under subparagraphs (1) and (2), separately with respect to each project away from premises owned by or rented to the named insured.

Coverages A and B—For the purpose of determining the limit of the company's liability, all bodily injury and property damage arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one occurrence.

IV. POLICY TERRITORY

This insurance applies only to bodily injury or property damage which occurs within the policy territory.

The foregoing discloses all hazards insured hereunder known to exist at the effective date of this policy, unless otherwise stated herein.

When used as a premium basis:

"admissions" means the total number of persons, other than employees of the named insured, admitted to the event insured or to events conducted on the premises whether on paid admission tickets, complimentary tickets or passes;

"cost" means the total cost to the named insured with respect to operations performed for the named insured during the policy period by independent contractors of all work let or sub-let in connection with each specific project, including the cost of all labor, materials and equipment furnished, used or delivered for use in the execution of such work, whether furnished by the owner, contractor or subcontractor, including all fees, allowances, bonuses or commissions made, paid or due;

"receipts" means the gross amount of money charged by the named insured for such operations by the named insured or by others during the policy period as are rated on a receipts basis other than receipts from telecasting, broadcasting or motion pictures, and includes taxes, other than taxes which the named insured collects as a separate item and remits directly to a governmental division;

"remuneration" means the entire remuneration earned during the policy period by proprietors and by all employees of the named insured, other than chauffeurs (except operators of mobile equipment and aircraft pilots and co-pilots, subject to any overtime earnings or limitation of remuneration rule applicable in accordance with the manuals in use by the company;

"sales" means the gross amount of money charged by the named insured or by others trading under his name for all goods and products sold or distributed during the policy period and charged during the policy period for installation, servicing or repair, and includes taxes, other than taxes which the named insured and such others collect as a separate item and remit directly to a governmental division.